

**PRESENTATION OF THE  
OFFICE OF GOVERNOR**

TO THE HOUSE COMMITTEES ON EDUCATION,  
LABOR AND PUBLIC EMPLOYMENT, AND HIGHER EDUCATION

TWENTY-SECOND LEGISLATURE  
Regular Session of 2004

Monday, March 15, 2004  
9:00 a.m.

**TESTIMONY ON SENATE BILL NO. 3238, S.D. 2 – RELATING TO EDUCATION**

TO THE HONORABLE ROY TAKUMI, MARCUS R. OSHIRO, AND K. MARK TAKAI,  
CHAIRS, AND MEMBERS OF THE COMMITTEES:

My name is Mark Recktenwald, Director of Commerce and Consumer Affairs, testifying on behalf of the Office of the Governor in opposition to S.B. No. 3238, S.D. 2.

A stated purpose of this bill is to implement education reform and decentralization. While certain portions of this bill may have merit, taken as a whole, S.B. No. 3238, S.D. 2, fails to meaningfully reform Hawaii's educational system. Rather than empowering individual schools and local communities, this bill creates a bigger, more powerful, more centralized, yet less accountable Department of Education ("DOE").

Moreover, S.B. No. 3238, S.D. 2, fails to ensure that more dollars will be controlled at the school level. Governor Lingle's proposal requires that at least 90 percent of the total funds appropriated by the Legislature each fiscal year for public school operations shall be controlled by the principals at the schools. This bill makes no such guarantee. Under this bill, the public doesn't know if the schools will control 90 percent or 10 percent or even zero percent of the operating moneys appropriated. This is so important that I want to restate it as directly as I can: S.B. No. 3238, S.D. 2 leaves unanswered the fundamental question of how much money will be controlled at the school level. The percent could actually decrease from the current level.

Weighted Student Formula

This bill would require DOE to implement a weighted student formula to provide operating moneys to public schools. The Administration supports the use of a weighted student formula, since it provides for a fair, open, and transparent process for allocating funds. Unfortunately, some people seem to have gotten the impression that use of a

weighted student formula ensures that money will be controlled at the school level. It does not. Weighted student formula affects the amount of money that can be spent FOR a particular school, but does not by itself address the critically important issue of control over that money. In other words, it would be possible to adopt and use a weighted student formula and yet continue to give the schools little control over the actual spending decisions.

Since there has been much public confusion about that issue, it is important to look closely at the actual language of the bill to determine what it does and does not do.

Section 2 of the bill provides that "not less than 93.5 percent of moneys allotted to the department shall be spent **for** schools and school complexes" (emphasis added). As an editorial in the March 12, 2004, Honolulu Advertiser noted, there is a world of difference between a requirement that moneys be spent "for" schools or complexes and a requirement that the money be spent "by" the schools. This bill's mandate that money be spent "for" the schools or complexes does not mean that schools will have power to determine how the money is spent—DOE could continue to control decision-making, and still say that it had satisfied the requirement that the spending be "for" the schools and complexes. Moreover, money could be directed to the complexes rather than to individual schools.

Section 2 of the bill also provides that "[u]nder the weighted student formula, the principal shall be responsible for expending operating monies provided to the principal's school." While that appears to provide some assurance of local control, that assurance is undercut by section 7 of the bill, which sets up the Advisory Group on Weighted Student Funding ("Advisory Group"). The Advisory Group is required to "recommend approval or disapproval, in whole or in part, on the basis of efficiency, the allocation that should be retained at the school, school complex, complex area, departmental school district, and state level..."

In other words, the Advisory Group will recommend what percentage—if any—of those funds will be controlled by the schools. And, the bill envisions five separate layers of bureaucracy that could be funded using the formula. The advisory Group's recommendation is supposed to be reported to the Board of Education ("BOE") and the Legislature, although the bill doesn't say who is supposed to approve or reject the recommendation. And after the Advisory Group terminates on June 30, 2006, the bill fails to state how future adjustments would be made to the weighted student formula.

Moreover, this bill does not clearly require that all of the monies spent on school operations be allocated under the weighted student formula. DOE would be free to fund only a portion of operating costs under the weighted student formula, and to fund the remainder under the current system in which the DOE decides how the money will be spent.

In sum, this bill does not guarantee that the schools will control any of the operating funds. At the end of the day, it appears that BOE has the final call on whether any moneys will be placed under the control of the schools. This is a sharp contrast to the Administration's bill, which provides expressly that at least 90 percent of operating funds are to be controlled by the schools.

The bill is also silent on allocating capital improvement project ("CIP") moneys. Thus, those projects would continue to be individually funded as they are today, with the Legislature sometimes overruling the construction priorities established by the DOE. In contrast, the Administration's proposal requires that CIP funds be appropriated by the Legislature in a lump sum, and then allocated the local school districts based on a neutral formula.

### Charter Schools

This bill fails to address the needs of charter schools. The Administration's proposal recognizes the value of charter schools, and requires that they receive funds under the weighted student formula on the same basis as other public schools. This bill does not. The Administration's bill provides additional funding to obtain facilities for charter schools; this bill does not. The Administration's bill recognizes that the current cap on the number of new charter schools has become a roadblock, and accordingly proposes to raise that cap from 23 to 46 schools. This bill does not. The Administration's bill recognizes that there should be authorities in addition to the DOE that are empowered to issue charters. This bill does not.

### Principals

This bill also fails to adequately address the critically important issue of accountability for our schools' principals. Section 47 talks about requiring a study that will implement a "formal job evaluation methodology" for high school principals. However, it is unclear what, if any, consequences would flow from those evaluations. And, the proposal is limited to high school principals, and does nothing at all to address accountability for principals at other levels.

In contrast, the Administration's proposal clearly makes principals accountable for student performance and the educational quality of their schools by providing that principals be appointed to performance-based contracts for two-year terms.

### Elected School Community Councils

This bill proposes to replace School/Community Based Management ("SCBM") with elected School Community Councils ("Councils") in each public school. This would amount to over 280 individual elected Councils. Adding these Councils without

dissolving DOE and BOE clearly adds another layer of bureaucracy to the public education system.

The bill does not indicate how much money would be needed to conduct elections for these councils and to support their activities. The bill leaves it up to the BOE to establish policies governing the composition, election, terms of office, and operation of the Councils.

The bill says that there should be "parity" between the principal, teachers, and other school personnel who will be members of the Council, but does not say how that parity is supposed to be achieved. Finally, the DOE is authorized to issue rules to implement the Councils without public notice or hearings under chapter 91, thus undercutting the public's ability to provide input.

These Councils have vaguely defined powers. The bill describes their role as one of encouraging school-initiated methods and diffusing decision-making. The bill suggests that principals should "collaborate" with the Councils and "possess shared decision making powers" with them over budget matters. Overall, it appears that these Councils have a role that is predominantly advisory in nature. But the lack of clarity about their role is likely to reduce accountability for the results achieved at each school.

#### Budget Requirements

We have serious concerns about removing both DOE and BOE from budget planning and performance requirements, and exempting them from the state procurement process. As a result of these provisions, the bill would make DOE and BOE even less accountable for educational spending. I will defer to the Department of Budget and Finance, and the Department of Accounting and General Services, for further comments on these matters.

#### Working Group on Interagency Relations

This bill provides for a Working Group on Interagency Relations ("Working Group") within DOE to develop comprehensive plans for transferring certain rights, powers, functions, duties, and resources from six executive departments to DOE. BOE would be responsible for appointing the chair and members of the Working Group. We are concerned that the Working Group does not have representation from any of the departments involved in the transfers, whose expertise would be needed in order to ensure that the transfer is accomplished smoothly.

Indeed, there is no requirement that the departments even have an opportunity to comment on the plans developed by the Working Group. Finally, the meetings of the group should be subject to chapter 92, to allow for public comment and participation.

The individual departments have more specific concerns about some aspects of the proposed transfers; I will defer to their testimony on those issues.

### Costs of Implementation

There will be significant costs associated with the measures the bill proposes. But the bill does not identify the costs for many of these items. Instead, it leaves blank amounts for the funding for the principals' training academy, the cost of paying high school principals to work 12 months a year, the implementation of the school based councils, and many other proposed appropriations.

### Conclusion

Taken as a whole, this bill centralizes power in DOE and BOE, rather than giving power to schools and local communities as the Administration's proposal would do. The bill adds to the size and complexity of the educational bureaucracy, by creating hundreds of councils, as well as additional advisory committees, while leaving the existing DOE and BOE bureaucracy intact. Any moneys provided under the weighted student formula could be spread out over five separate layers of bureaucracy. The bill diffuses accountability, and the fundamental decision about what percent of operating funds will be under the control of the schools is left to the discretion of the BOE. As I stated earlier, this means that the amount of money controlled at the school level could actually decline from the current level if this bill is enacted.

All of the myriad advisory committees established by this bill would have their membership selected by BOE or DOE, including the Working Group on Interagency Relations, the Committee on Weights, and the Advisory Group on Weighted Student Funding. DOE and BOE would be exempt from our procurement laws—laws that are intended to ensure a fair, open, and accountable procurement process. The checks and balances that are fundamental to our current budgeting system would be erased.

This bill does not meaningfully increase the accountability of the principals. Nor does it support the the charter schools.

In conclusion, although the bill's stated purpose of enhancing educational outcomes in Hawaii's public schools is something we all can agree with, this bill does not deliver on that promise.

Thank you for the opportunity to present testimony.